

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
SAN FRANCISCO STATE UNIVERSITY
1600 BURK HALL #503
SAN FRANCISCO, CA 94132
MEETING MINUTES**

**JULY 11, 2003
BOARD MEETING**

Members Present

Alison Grimes, AuD, Chairperson
Sherry Washington, MA
Bruce Gerratt, PhD
Marcia Raggio, PhD
James Till, PhD
Rebecca Binge, MA

Staff Present

Annemarie Del Mugnaio, Executive Officer
Lori Pinson, Staff Analyst
George Ritter, Staff Counsel

Guests Present

No guests present

Members Absent

Paul Donald, MD
Vivian Shannon, MA

I. Call to Order

Chairperson Grimes called the meeting to order at 10:50 a.m.

II. Introductions

Those present introduced themselves.

III. Approval of Meeting Minutes for April 24-25, 2003 – Committee Meetings and Full Board Meeting

M/S/C: Washington/Raggio

The Board voted to approve the April 2003 Board and Committee meeting minutes as amended.

IV. Chairperson's Report (Alison Grimes)

Ms. Grimes shared her professional experiences regarding the impact that the lack of a state budget is having on consumers. She stated that in the clinic where she works, the

administration has made a decision to provide services to both Regional Center and Medi-Cal patients through the end of July, however, services may be drastically reduced if there is no State budget as of August 1.

Other board members discussed the potential impact the lack of a state funding has on many impoverished state funded agencies.

V. Committee Reports

A. Speech-Language Pathology Practice Committee (Till)

Mr. Till stated that the Committee met on the afternoon of July 10, 2003, to discuss four items as provided on the meeting agenda. The first item of discussion before the Committee was to consider the development of reference materials to be used by Board staff when evaluating course work applied to Continuing Professional Development (CPD) renewal requirements for speech-language pathologists. Mr. Till stated that, after considerable discussion, the Committee acknowledged that the current process of approving providers rather than specific courses led to ambiguity. He stated that both licensees and CPD providers had difficulty determining whether course offerings were accepted as being directly relevant to the practice of SLP.

The Committee delegated to the Executive Officer the task of investigating the mechanisms and costs associated with approving CPD courses and requested that she research the prospects of utilizing a professional volunteer to review CPD coursework.

Mr. Till reported that the second item before the Committee involved an appeal filed by a licensee regarding the denial of the course "Animal Assisted Therapy" for CPD credit. He stated that following a considerable review and discussion of the materials relative to the course, the Committee determined that the course objectives were general and did not include references to speech-language pathology diagnostic and treatment activities. Thus, the Committee upheld the denial of the course. Mr. Till further stated that the Committee decided to recommend that the Executive Officer send a letter to the provider of the course explaining the situation surrounding the denial.

Mr. Till introduced item number three and stated that the Executive Officer provided an update on the status of the Board of Occupational Therapy's (BOT) proposed regulations on swallowing. He stated that Ms. Del Mugnaio provided oral testimony at the BOT Regulatory Hearing and that Ms. Washington has agreed to attend the next BOT Regulatory Committee Meeting to be held July 14, 2003.

Mr. Till stated that the final Committee agenda item concerned the discussion of services and advertisements provided by Behaviorists and Educational Therapists and the potential for unlicensed activity by these two service groups. He stated that Ms. Del Mugnaio provided the history on the discussion and referenced meeting minutes of October 2001, wherein the Board acknowledged the overlap in services provided by these unlicensed individuals and that of speech-language pathologists. At that time, the Board determined that it would address the unlicensed activity concerns through the complaint process. He stated that the public guest, Carol Murphy, Task Force Chair on Unlicensed Activity for the California Speech-Language-Hearing Association, addressed

the Board and expressed concern regarding the advertisements of Behaviorists and Educational Therapists in terms of misleading the public to believe that the services represented were that of a speech and hearing professional. Mr. Till stated that Ms. Murphy believed that many of these unlicensed individuals were unaware that they do not possess the required credentials to offer speech and language services. However, she acknowledged that the manner in which they represent their professional services implies that they are speech-language pathologists. Mr. Till stated that after further discussion, it was the consensus of the Committee that two letters be written: A general letter of education to the Association of Educational Therapists providing information relative to the scope of practice of speech-language pathology and the provisional limits on advertising speech and language services. A letter was written to the individuals identified in the meeting materials informing them of their misleading advertisements. Mr. Till stated that the CSHA Task Force may identify more individuals engaged in similar types of advertising and forward that information to the Board for further action.

M/S/C: Washington/Gerratt

The Board voted to accept the report and recommendation of the Speech-Language Pathology Practice Committee.

B. Audiology Practice Committee (Bingea)

Ms. Bingea stated that the first item of discussion before the Committee was to review the continuing professional development (CPD) reference document developed to assist staff in reviewing CPD provider applications as well as any course information that would be received by the Board in response to the CPD audits. She stated that this discussion evolved into a discussion similar to that of the CPD discussion in the Speech-Language Pathology Committee in that the Committee decided that the laws and regulations should be modified to allow for course approval. Ms. Bingea stated that the Committee also determined that a provision limiting the number of hours in courses sponsored by hearing aid dealers to 50% of the total hours required for audiologists should be implemented. The task for preparing this legislative/regulatory proposal was delegated to the Executive Officer. She stated that, in the interim, the Committee recommended that the Board adopt the CPD reference document prepared by Ms. Bingea as a tool to assist staff in reviewing audiology coursework.

Ms. Bingea stated that the Committee discussed 6 legislative bills. She stated that Assembly Bill 510 related to Medi-Cal coverage for medical equipment was transferred to Assembly Bill 747. Ms. Bingea reported that Assembly Bill 525, eliminating the requirement that audiologists dispensing hearing aids to children 16 years old or younger hold ASHA certification, and instead requiring the audiologist hold state licensure, was on the Governor's desk for signature. Assembly Bill 532, regarding audiologists' solicitation in public schools, has been transformed and is no longer applicable to the practice of audiology. She stated that Senate Bill 174, regarding hearing aid coverage up to \$1,000 for persons 18 years old or younger, would be tracked by Ms. Del Mugnaio and that Ms. Del Mugnaio would notify the Board of any activity that may warrant Board interaction. Senate Bill 648, regarding unbundling wherein a hearing aid dispenser could retain a nominal fee upon return of a hearing

device, is a two-year bill and is scheduled for a policy hearing in January 2004. Assembly Bill 747, regarding Medi-Cal rates and hearing aids was heard in the Health and Human Services Committee on July 9, 2003, and is a provision that will provide a list of covered durable medical equipment with specified caps. Ms. Bingea stated that the Committee recommended that a letter of support be drafted by Ms. Grimes suggesting amendments to the bill that would eliminate the list of specific hearing aid products and, rather provide for appropriate maximum allowable costs for hearing technology.

Ms. Bingea stated that the final item before the Committee was an update provided by Ms. Del Mugnaio on the Centers for Medicare & Medicaid Services (CMS) Proposed Rule for Audiologists' Professional Standards wherein the definition of an audiologist authorized service provider is a practitioner holding state licensure. Ms. Bingea stated that the proposed rule change is similar to the amendment proposed in AB 525. She stated that Ms. Del Mugnaio would continue to track the federal rule and report the final disposition to the Board.

M/S/C: Raggio/Washington

The Board voted to accept the report and recommendations of the Audiology Practice Committee.

VI. Executive Officer's Report (Annemarie Del Mugnaio)

A. Budget Update

Ms. Del Mugnaio reviewed the Board's budget projections for the end of fiscal year 2002/2003. She stated that the projections indicated a 10% surplus through the end of June 30, 2003 which was a result of the Board's efforts to curtail spending as directed by the Governor's Office. She also referenced the Board's enforcement expenditures and stated that the minimal costs projected on the spreadsheet was not reflective of the current level of enforcement activity. The Board's caseload has increased significantly due to a multitude of factors, including an increase in subsequent arrest notifications from the Department of Justice. Ms. Del Mugnaio indicated that the cost to process the increased caseload would not be reflected in the Board's budget for another 6 months or more.

Ms. Del Mugnaio referenced guidelines provided by the Department of Consumer Affairs outlining the spending restrictions that are enforced while the State is operating without an approved budget.

Ms. Del Mugnaio indicated that because the state's fiscal situation is extremely bleak, agencies are being discouraged from expending resources in out-of-state travel that is not of a critical need. As such, the Board is not planning to direct resources to funding any out-of-state travel unless a specific request for travel is made by a board member.

Ms. Del Mugnaio informed the Board members that, as a result of the directive from the Department of Finance, every state agency regardless of funding source must reduce

its budget by 10%. This resulted in an estimated \$26,000 reduction for the Board which was extracted as follows; \$17,600 from the Board's Associate Governmental analyst position, \$4,200 from the temporary help line item, and \$4,200 from Board member per diem.

B. Website Update (Statistics)

Ms. Del Mugnaio provided the Board with statistical information on the number of internet hits to the each of the Board's individual web pages. She stated that the information was compiled to respond to a request made by Mr. Till.

Ms. Del Mugnaio stated that the Board's webpage has been updated and provides more information on the Health Insurance Portability and Accountability Act of 1996 including a direct link to the California Office of HIPPA implementation. She also provided the Board members with details on training dates available to healthcare providers to educate them on the new guidelines for use and disclosure of protected health information.

C. Professional Licensing & Enforcement Management System (PLEMS)

Ms. Del Mugnaio stated that the Department of Consumer Affairs is proceeding with the PLEMS project despite current budget restrictions and expenditure reductions. The project is a large scale overhaul of the Department's existing database and software programs. The new system would be designed to interface licensing, enforcement, and administrative processes for the Department and all of its client agencies and enable users to collect data and develop reports more efficiently. The new system is projected to be available to a pilot group of programs by FY 2004/2005. The initial roll-out cost to SLPAB will be an estimated \$40,000 however the actual cost methodology is still forthcoming.

Ms. Del Mugnaio stated that the Department has identified three off-the-shelf systems that can meet, or can be modified to meet, most of the client agencies' business needs. She stated that the Board will likely need to purchase new office PCs in order to use the features of the new programming.

D. Continuing Professional Development (CPD) Audit Update

Ms. Del Mugnaio provided the Board with compliance statistics for the CPD audit. She stated that the statistics are revealing with respect to the number of non-responses that were recorded for speech-language pathology. She stated that most often the reason licensees fail to respond to Board requests is because they do not receive Board mail due to an incorrect address of record on file with the Board.

Ms. Grimes inquired about the action taken if someone fails to respond to the CPD audit.

Ms. Del Mugnaio stated that a certified letter would be sent to the licensee providing them another opportunity to respond to the request and if there is still no response, the licensee would be cited and fined.

A general discussion ensued regarding the percentage of the licensing population that should be audited for each profession based on the compliance statistics collected for the 2003 CPD audit. There was a general consensus that the percentage should vary based on staff workload and CPD policy changes.

E. Strategic Plan Submission

Ms. Del Mugnaio stated that she incorporated the edits to the plan made at the April Board meeting and included the additional grammatical changes submitted by Ms. Bingea. The copy included in the meeting packets is the final version of the plan that was forwarded to the Department of Consumer Affairs in late June.

F. Status on Legislative Initiative to Define Prohibited Business Arrangements within the “Speech-Language Pathologists and Audiologists Licensure Act”

Ms. Del Mugnaio stated that at the April meeting she reported that the Senate Business and Professions Committee had agreed to carry legislation to define unlawful business arrangements involving speech-language pathologists and audiologists. Since that time, the Committee has asked that the Board work with the Department of Consumer Affairs to develop specific language that could be included in a Departmental omnibus bill. She stated that she and Mr. Ritter met with Robert Puleo of the Departments Legislative and Regulatory Review Unit to discuss the proposed language that is included in the meeting packets. Mr. Puleo indicated that he would present the information to the Deputy Director, Kristy Wiese, and report to the Board with the decision.

Ms. Del Mugnaio reported that she spoke with Ms. Wiese prior to the Board meeting and Ms. Wiese indicated that she would facilitate a meeting with the Board, the Attorney General’s Office, and the lobbyist for the California Academy of Audiology.

Ms. Grimes inquired about the draft language and indicated that the language appeared to potentially prohibit any provider from contracting with a healthcare service plan to offer services at a discounted rate. She stated that the language should be modified to somehow differentiate between providers who are participating in legitimate contracts with healthcare service plans and those that are engaging in arrangements where there is an exclusive agreement between a licensed individual and a healthcare plan to refer the plan enrollees to that licensee in exchange for a drastically reduced rate.

Mr. Ritter indicated that he would continue to work on the language to address the Board’s concerns.

Mr. Ritter stated that he researched the federal “Any Willing Provider” law and a precedent supreme court case in Kentucky. He stated that since Kentucky has a state

law to enforce the federal “Any Willing Provider” provision, the case in Kentucky against the actions of the Healthcare Maintenance Organizations ruled in favor of the providers. He further stated that a similar case in California may have a very a different outcome because California does not have a state “Any Willing Provider” law.

A general discussion ensued on the merits of the contractual agreements that exist between healthcare providers and healthcare service plans.

G. Reappointment of Board Members

Ms. Del Mugnaio recommended that the members who wish to be re-appointed to a second term should write a letter to the Governor’s Appointments Secretary, Michael Yamaki, indicating their interest and include any relevant updates to their curricula vitae. She stated that it would be beneficial for board members to write letters of recommendation for one another. A standard letter written by the Board Chairperson, Ms. Grimes, could be used for each professional member seeking re-appointment.

VIII. Proposed Regulations

A. Complaint Disclosure

Mr. Ritter provided the Board with a status update on the Podiatry Board’s proposed regulations regarding compliant disclosure and indicated that there were no strong objections to the language proposed.

Ms. De Mugnaio stated that the preceding action by the Podiatry Board should pave the way for SLPAB to file its regulatory proposal. Ms. Del Mugnaio indicated that upon Ms. Raney’s return from maternity leave, she and Ms. Raney will prepare the necessary regulation forms for the disclosure regulations.

B. Licensing Clean-Up (California Code of Regulations Sections 1399.152, 1399.152.2, & 1399.152.3)

Ms. Del Mugnaio referenced the proposed language in the meeting packets and stated that the Board had voted at its April 25, 2003 meeting to approve the amendments to the regulation Sections 1399.152(a), 1399.152.2, and 1399.152.3 but was unclear on the changes that should be made to Section 1399.152(b) as more information regarding the history of that particular subsection was required.

Ms. Del Mugnaio restated the history and past discussions regarding the amendments proposed in Section 1399.152 which provides for the definition of an institution approved by the Board. She stated that at its January 17 and April 25, 2003, meetings, the Board voted to amend the existing regulations to define an institution approved by the Board as one that offers a graduate education program accredited by the American Speech-Language-Hearing Association (ASHA). She stated that the amended language would provide an approval for institutions that offer advanced degree programs if the institution offers a graduate program accredited by ASHA. Institutions that hold only regional accreditation absent a professional program accreditation were

not included in the definition of a board-approved institution because the professional academic components were not evaluated by an accrediting body.

Ms. Del Mugnaio explained that the consideration for amendments to the existing Section 1399.152(b) regarding “Educational institutions listed in the current Guide to Graduate Education in Speech Pathology and Audiology published by the American Speech-Language-Hearing Association...” was still up for debate. She stated that the language is out-dated as the “Guide” referenced in the Section no longer exists on paper. Instead there is an on-line listing at ASHA’s web page that lists programs and their respective accreditation status. She stated that she believes the existing language in subsection (b) was intended to provide for board approval of graduate programs that were identified by ASHA as holding candidacy status. This explained the designated criteria spelled out in the subsection relative to faculty and staffing requirements. Ms. Del Mugnaio stated that the issue before the Board was whether the Board wanted to recognize programs holding ASHA candidacy status as being Board-approved.

Ms. Del Mugnaio referenced the “Candidacy Manual 2003 Council on Academic Accreditation in Audiology and Speech-Language Pathology” published by ASHA, as provided in the meeting packets, and directed the members to the information in the manual entitled “Requirements for the Award of Candidacy.”

Ms. Grimes pointed out that the Step I requirements do not require a specific ratio for faculty/staff versus students.

Mr. Till pointed out that a program can hold candidacy status for up to five years before having to comply with all of the accreditation standards.

Ms. Washington asked for clarification on how a program is qualified as a candidacy program.

Ms. Del Mugnaio stated that the program must be a new program that has not, during the past 5 years, graduated a student with an entry level graduate degree in the relevant profession. She stated that, according to ASHA, there are approximately 3 existing candidate programs.

Ms. Del Mugnaio reported that, according to information from ASHA, some states do not recognize ASHA candidacy, therefore, California would not be alone if they chose not to include candidacy programs in the defining regulations.

Mr. Till stated that the requirements for candidacy status appeared lax and would not ensure that the program has the appropriate administrative resources.

M/S/C Grimes/Washington

The Board voted to retain the proposed language in Section 1399.152(a), as approved at the April 25, 2003 Board meeting, that provided for the definition of an institution approved by the Board as one that offers a graduate education program accredited by the American Speech-Language-Hearing Association (ASHA) and voted to strike the

language referencing candidacy status. Further, the Board voted to delete the existing language in 1399.152(b) as the language is out-dated and reflects approval of candidacy programs under specified criteria.

IX. Discuss Draft Sunset Review Narrative and Updated Time-Line for Completion of Final Report

Ms. Del Mugnaio suggested that Ms. Raggio forward the current draft report to the Board members with a request that any additional information and/or statistical updates be forwarded to her by the first of October.

Ms. Del Mugnaio stated that the Board should have a complete draft report prepared by January 2004 and thereby provide ample time to make necessary edits before sending the report to the Department of Consumer Affairs for input.

X. Meeting Calendar 2004

The Board scheduled the 2004 meetings as follows: January 22-23, 2004 in Sacramento and April 15-16, 2004 in San Francisco.

XI. Public Comment on Items Not on the Agenda

There were no public comments.

XII. Announcements

A. Next Board Meeting is October 23-24, 2003 Los Angeles

XIII. Adjournment

There being no further discussion, Chairperson Grimes adjourned the meeting at 4:15 p.m.

Annemarie Del Mugnaio, Executive Officer